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In re Application of :
Kuhl et al :
Application No.: 09/806,410 : DECISION ON
PCT No.: PCT/EP98/06225 :
Int. Filing Date: 30 September 1998 : PETITION
Priority Date: None :
Attorney's Docket No.: BEET-03 : UNDER 37 CFR 1.181
For: Depth Measurement and Depth Control Or :
Automatic Depth Control For A Hollow To Be Produced :
By A Laser Procession Device :

This decision is in response to the "Request For Correction Of Notification Of Acceptance Of Application Under 35 USC §371," which is being treated as a petition under 37 CFR 1.181, requesting that the filing date of 29 March 2001 be accorded the above national application for the receipt of the preliminary amendment and the information disclosure statement.

DISCUSSION

On 29 March 2001, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), copy of the international application, unsigned declaration and power of attorney, preliminary amendment, information disclosure statement, and a postcard return. Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed Declaration or Oath was provided with the transmittal letter.

On 25 April 2001, the United States Designated/Elected Office erroneously mailed a Notification of Acceptance (Form PCT/DO/EO/903) because at the time of mailing applicants had not submitted an oath or a declaration. This form also incorrectly informed the applicant that the Preliminary amendment and Information Disclosure have a filing date of 30 March 2001, which is an error based on the USPTO stamped postcard.

The correct filing date for the Preliminary amendment and Information Disclosure is a filing date of 29 March 2001.

The postcard lists the items submitted on 29 March 2001.

MPEP 503 provides:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard is accepted as *prima facie* that the Preliminary amendment and Information Disclosure were deposited with the Patent and Trademark Office on 29 March 2001.

Because the United States Designated/Elected Office erroneously mailed a Notification of Acceptance (Form PCT/DO/EO/903) since at the time of mailing applicants had not submitted an oath or a declaration, the Notification of Acceptance (Form PCT/DO/EO/903) mailed on 25 April 2001 is **VACATED** with the mailing of this decision.

DECISION

The petition under 37 CFR 1.181 is **GRANTED** in that the Preliminary amendment and Information Disclosure were deposited with the Patent and Trademark Office on 29 March 2001. However, the Notification of Acceptance (Form PCT/DO/EO/903) mailed on 25 April 2001 is **VACATED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371 and for issuing a PCT/EO/DO/ form 905 (Notification of missing requirements) to inform applicant that an executed Declaration or Oath is missing.

Any further correspondence with respect to this matter should be addressed to the Commissioner for Patents, Office of PCT Legal Administration, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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